FOR THE CASE OF Prevailing Wage Commission Meeting

TRANSCRIPT OF

Final Meeting

November 30, 2017

Stone & George COURT REPORTING

2020 Fieldstone Pkwy

Suite 900 - PMB 234

Franklin, TN 37069

(615) 268-1244

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For questions, call (615) 268-1244 or send an email to nangeorge@stoneandgeorge.com

1	Page 1				Page (
1.	STATE OF TENNESSEE DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT	1. 2.	I.	AGENDA Call to Order and Roll Call	
2.	DIVISION	3.	II.	Announcements	
3.		4.	III.	Conflict of Interest Declaration	
4.		5.	IV.	Old Business	
5.		6.		* Review and Approve November 16, 2017 Prevailing Wage Commission Meeting	
6.		7.		Summary prepared by the Labor Standards	
7.	Transquist of Drassadinas			Unit	
8. 9.	Transcript of Proceedings of	8.	V.	New Business	
0.	The Prevailing Wage Commission Meeting	9.		Ten Business	
1.	November 30, 2017	10		* Review and discuss the Revised	
2.		10.		Preliminary 2018 Prevailing Wage Rates for State Highway Construction Projects	
3.		11.			
4.		12.		* Set Rates for 2018 Prevailing Wage for State Highway Construction Projects	
5.		13.		* Discuss future Prevailing Wage Meeting	
6. 7		"		dates for 2018	
7. 8.		14.	VI.	Adjournment	
o. 9.		15.	V 1.	Adjournment	
0.		16.			
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2	DOMINIOUE A DUDOIC LODE (9)	19. 20.			
3.	DOMINIQUE A. DUBOIS, LCR# 686 STONE & GEORGE COURT REPORTING	21.			
4.	2020 Fieldstone Parkway	22.			
	Suite 900 - PMB 234	23.			
5.	Franklin, Tennessee 37069	24. 25.			
	(615) 221-1089	25.			
	Page 2	1]	Page
1.	APPEARANCES	1.		PROCEEDINGS	
2.	Commissioner Burns Phillips, Chairman	2.		CHAIRMAN PHILLIPS: Okay.	
3.	•	3.	Way	burn Crabtree.	
4.	Commissioner Wayburn Crabtree, TDOT Designee	4.		MR. CRABTREE: Present.	
_	Commissioner Stephen Wright, Industry	5.		CHAIRMAN PHILLIPS: We know Ann's not	
5.	Representative Wright Brothers Construction Company, Inc.	6.	here	e. Stephen's not here. Mr. Summers.	
6.		7.		MR. SUMMERS: Present.	
7.	Commissioner R.T. Summers, Industry Representative Summers-Taylor, Inc.	8.		CHAIRMAN PHILLIPS: And I am present,	
8.	Commissioner Ann McGauran, State Architect	9.	Bur	ns Phillips. Okay. In the event of an	
9.	Tennessee Department of Treasury	10.		ergency I have to do this, right?	
	Kim Jefferson, Esq., Administrator	11.		MS. CAUDILL: Yes, you do.	
0.	Dan Bailey, Esq., Legal Counsel	12.		CHAIRMAN PHILLIPS: In the event of	
1.		13.	an e	mergency, security	
2.	Jan Caudill, Administrative Assistant	14.		MR. SUMMERS: I'm going to follow	
	Carolyn Sherrod, Administrative Services Manager	15.	you		
3.	Kenneth Nealy, Director	16.	you	. CHAIRMAN PHILLIPS: and/or staff	
4.	·	17.	vay: 11	take meeting attendees to a safe place in the	
5.	Kent Starwalt, TRBA	18.		ding or direct them to exit the building on the	
6.		19.		a Parks side. Just follow me. I'll be in the	
7. 8		20.		a ranks side. Just follow life. The be in the	
8. 9.		1	HOL		
0.		21.	**	MR. STARWALT: We'll be right behind	
1.		22.	you	the whole time.	
2.		23.		CHAIRMAN PHILLIPS: Did you get my	
24.		24.	con	flict of interest?	
		25.		MS. CAUDILL: I did.	
5.		1			

		Page 5			Page 7
1.	CHAIRMAN PHILLIPS: Okay. Good. All	Tuge 6	1.	whether that was in the rule or whether it was in	ruge ,
2.	right. So has everybody submitted their conflict of		2.	the statute but it's	
3.	interest? Okay. Good. Request a motion to approve		3.	MR. SUMMERS: It's in the law.	
4.	labor standards summary of November 16, 2017.		4.	CHAIRMAN PHILLIPS: It's in the	
5.	MR. CRABTREE: I move for approval.		5.	statute.	
6.	CHAIRMAN PHILLIPS: Second?		6.	MR. CRABTREE: Okay. Just out of	
7.	MR. SUMMERS: Wait, what are we		7.	curiosity, is that does the old rule still	
8.	doing?		8.	apply	
9.	CHAIRMAN PHILLIPS: You know, the		9.	MS. CAUDILL: It's a law.	
10.	last meeting.		10.	MR. CRABTREE: or has that rule	
11.	MR. SUMMERS: Oh, the past meeting.		11.	been	
12.	CHAIRMAN PHILLIPS: Yeah.		12.	MS. CAUDILL: It's on page two, at	
13.	MR. SUMMERS: The minutes.		13.	the top of the page.	
14.	CHAIRMAN PHILLIPS: Yeah. The		14.	CHAIRMAN PHILLIPS: Yeah. It's this	
15.	minutes.		15.	one right here. Oh, you've seen it.	
16.	MR. SUMMERS: Second. Okay.		16.	MR. CRABTREE: Oh, I don't want to	
17.	CHAIRMAN PHILLIPS: Okay. All in		17.	read it.	
18.	favor?		18.	CHAIRMAN PHILLIPS: Yeah.	
19.	MR. SUMMERS: Aye.		19.	MR. CRABTREE: I just I was really	
20.	MR. CRABTREE: Aye.		20.	more curious about whether the old rule is still	
21.	CHAIRMAN PHILLIPS: All opposed?		21.	applicable.	
22.	Okay. Give me just a second. Okay. Any discussion		22.	CHAIRMAN PHILLIPS: Okay.	
23.	on and new business on revised rates? Are there		23.	MS. JEFFERSON: We've always used the	
24.	any conflicts?		24.	law. We've gone by the law. This must have been a	
25.	MR. SUMMERS: I had one issue, and I		25.	miscalculation; is that what happened?	
	,			,	
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		Page 6			Page 8
1.	think I'm correct. The law only gives us the right	Page 6	1.	MS. CAUDILL: Well, it was what was	Page 8
1. 2.	think I'm correct. The law only gives us the right to change the survey rate by six percent. Of six	Page 6	1. 2.	MS. CAUDILL: Well, it was what was decided at the last meeting, to just go across the	Page 8
1	• •	Page 6			Page 8
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		Page 9			Page 11
1.	meeting.	Tuge	1.	MR. SUMMERS: I think that it might	ruge 11
2.	CHAIRMAN PHILLIPS: Second?		2.	be a little to me, it's a little it leaves	
3.	MR. CRABTREE: Second.		3.	something out, because there's all kinds of funds	
4.	CHAIRMAN PHILLIPS: Any discussion?		4.	comes from TDOT to airports (verbatim). A lot of	
5.	All opposed? All in favor?		5.	the small airports, especially. It's TDOT money.	
6.	MR. SUMMERS: Aye.		6.	In my mind, there should be a prevailing wage on it.	
7.	MR. CRABTREE: Aye.		7.	It's not actually a highway, but it's still TDOT	
8.	CHAIRMAN PHILLIPS: So moved. Okay.		8.	money and it's the same type of work and our wage	
9.	We need a motion to approve the prevailing wage		9.	rates would apply.	
10.	rates for 2018.		10.	We've done a good many of those	
11.	MR. SUMMERS: I thought that's what		11.	smaller airports in the last several years, and	
12.	we just did.		12.	every one of them has had this wage rate in it.	
13.	MS. CAUDILL: That's what we just		13.	People have just assumed because they used it	
14.	did.		14.	in the past. In the past, it was, I think,	
15.	CHAIRMAN PHILLIPS: Just did?	1	15.	required. But when they narrowly defined wrote	
16.	MR. SUMMERS: Yeah.	1	16.	this law, they left that stuff out. To me, if	
17.	CHAIRMAN PHILLIPS: How come it's on	1	17.	something comes through TDOT, to a local	
18.	here twice?		18.	government like that, local authority, I think the	
19.	MS. CAUDILL: Is it?		19.	legislature thinks it's got prevailing wage in it,	
20.	CHAIRMAN PHILLIPS: I'm just giving		20.	in my mind. If they think of it that	
21.	you a hard time.		21.	MR. CRABTREE: That makes sense.	
22.	MR. SUMMERS: Don't mess with her.		22.	That's not how our general counsel would interpret	
23.	She's doing a good job. Don't mess with her.		23.	it, though.	
24.	MS. CAUDILL: Thank you. And I was		24.	MR. SUMMERS: Yeah.	
25.	like, I read that twice. That's what I was going to		25.	MR. CRABTREE: What he is leaning on	
		Page 10			Page 12
1.		Page 10	1.	is that it has to be a state contract, and those are	Page 12
1. 2.	say.	Page 10	1. 2.	is that it has to be a state contract, and those are contracts between a local agency and the airport.	Page 12
1	say. CHAIRMAN PHILLIPS: Okay. And the	Page 10		contracts between a local agency and the airport.	Page 12
2.	say.	Page 10	2.		Page 12
2. 3.	say. CHAIRMAN PHILLIPS: Okay. And the future prevailing wage meeting dates, I thought we	Page 10	2. 3.	contracts between a local agency and the airport. They're not a state contract. So there's where it	Page 12
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the local entity's benefit to use our wage ecause other things that are out there in		-	
ecause other things that are out there in	3.		
_		MR. SUMMERS: I think if that's	
ketnlace are not as accurate as ours and are	4.	the way the law reads, I think it's pretty clear.	
acipiace are not as accurate as ours and are	5.	It's but I think we leave something out.	
the board. So I mean, people, if they	6.	MR. CRABTREE: I don't disagree.	
ne federal government requires wage rates, you	7.	CHAIRMAN PHILLIPS: Yeah.	
think that we ought to require them, too.	8.	MR. CRABTREE: But	
them to use ours, because these are the best	9.	MS. JEFFERSON: Right. And I know	
e. But I know right now, according to	10.	one thing that the Commissioner has charged us to do	
you can't.	11.	is just follow the laws as written, because we have,	
CHAIRMAN PHILLIPS: Right.	12.	you know, come into problems in trying to interpret	
MR. CRABTREE: Well, I we're still	13.	it ourselves. And when we do that, generally, it's	
ng that internally, not necessarily for	14.	the wrong interpretation. So that's pretty much	
, but for what we call our local programs.	15.	why, you know, we're just trying to follow it as	
MR. SUMMERS: Sure.	16.	written.	
MR. CRABTREE: All of our locally	17.	CHAIRMAN PHILLIPS: It's not always	
d programs. And that's huge.	18.	the wrong interpretation. This is the right	
MR. SUMMERS: It is.	19.	interpretation. It just doesn't agree with those	
MR. CRABTREE: There is a bunch of	20.	other people.	
And we haven't come to a consensus on it,	21.	MS. JEFFERSON: Well, that's true.	
What we think is, we probably would go	22.	CHAIRMAN PHILLIPS: Nevertheless, we	
nd put those put the state rates in. But	23.	have to go we do go by whatever the rule of law	
one challenges it, then all we have is a	24.	is, I mean, in everything we do. And so that	
t to enforce it. And there's no remedy in	25.	doesn't mean we disagree with what you're saying,	
Dog	e 14		Page 16
tract if someone doesn't want to do it.	1.	but	Tage 10
MR. SUMMERS: Okay.	2.	MR. SUMMERS: Yeah.	
CHAIRMAN PHILLIPS: But the	3.	CHAIRMAN PHILLIPS: this binds us	
ssion is bound by this, in terms of any	4.	at this point in time.	
nendations. I mean, this is	5.	MS. CAUDILL: So when I get a wage	
MR. SUMMERS: What do you think	6.	determination from aeronautics, what do I tell them,	
ell, maybe you can't speak, but would the	7.	because	
stration and/or TDOT mind or oppose a	8.	MR. CRABTREE: What does she tell	
ation of this law to include TDOT money that	9.	them, Commissioner?	
airports and local entities, to use this	10.	MS. CAUDILL: 18 of	
1	11.	CHAIRMAN PHILLIPS: It doesn't bother	
CHAIRMAN PHILLIPS: It'd have to go	12.	me if it doesn't fall within the parameters of the	
ttorney General.	13.	statute language.	
MR. SUMMERS: Probably have to get a	14.	MS. CAUDILL: Okay. So if it's not a	
sed.	15.	state contract, then basically is the first question	
MR. CRABTREE: Yeah. Do you do a	16.	to ask. And if it's not, then we have no	
promulgate the rule?	17.	jurisdiction or no regulation.	
MR. BAILEY: You'd have to change the	18.	CHAIRMAN PHILLIPS: We have no	
	19.	authority.	
CHAIRMAN PHILLIPS: Yeah. You would.	20.	MS. CAUDILL: Okay. Because 18 of	
MR. SUMMERS: Okay.	21.	the last 20 I got were from them.	
CHAIRMAN PHILLIPS: I mean, you could	22.		
ou could ask for a formal	I	•	
MS. CAUDILL: Opinion?		• •	
_	25.	prevent them	
CHAIRMAN PHILLIPS: opinion from			
CHAIRMA ou could ask fo MS. CAUD	N PHILLIPS: I mean, you could or a formal ILL: Opinion?	N PHILLIPS: I mean, you could 22. or a formal 23. ILL: Opinion? 24.	N PHILLIPS: I mean, you could 22. CHAIRMAN PHILLIPS: Just keep 23. saying 24. MR. SUMMERS: But there's nothing to

	Page 1	'		Page 19
1.	MS. CAUDILL: Right.	1.	situation, no, we would have no jurisdiction.	
2.	CHAIRMAN PHILLIPS: No, no, no.	2.	MS. CAUDILL: Unless it was a state	
3.	MR. SUMMERS: If a if their	3.	contract.	
4.	funding requires a prevailing wage, there is nothing	4.	MR. SUMMERS: Yeah.	
5.	to prevent them and they should, in my opinion, use	5.	MS. CAUDILL: Correct? Okay.	
6.	ours.	6.	MR. BAILEY: Well, now, on we	
7.	MS. CAUDILL: Yeah. That's in the	7.	wouldn't have jurisdiction on an airport even if it	
8.	last paragraph.	8.	was a state because it's not a highway.	
9.	CHAIRMAN PHILLIPS: Yeah. They can	9.	MS. CAUDILL: Okay.	
10.	certainly do that.	10.	MR. BAILEY: Yeah.	
11.	MR. CRABTREE: But all they have to	11.	MR. SUMMERS: I think it would be a	
12.	enforce it is the contract, and there's no remedy in	12.	fairly simple fix to change this instead of just	
13.	the contract if someone doesn't want to abide by it.	13.	highway, to change it to TDOT funding. And this	
14.	MS. CAUDILL: Right.	14.	wage rate follows the funding.	
15.	MR. CRABTREE: And for that matter,	15.	MR. CRABTREE: I don't think anyone	
16.	they could use last year's or the year before or	16.	at TDOT would object to that. I can only really	
17.	but it gets it kind of gets out of hand once you	17.	speak for myself but	
18.	deviate from	18.	MR. SUMMERS: Yeah.	
19.	CHAIRMAN PHILLIPS: There's no remedy	19.	MR. CRABTREE: the conversations	
20.	in the contract?	20.	I've had, I don't think anyone would object to that.	
21.	MR. CRABTREE: I don't believe so.	21.	If that's what the law says, then that's what we'll	
22.	MR. SUMMERS: Well	22.	do.	
23.	MR. BAILEY: I mean, they can put	23.	MR. SUMMERS: Uh-huh.	
24.	it	24.	MR. BAILEY: Does TDOT fund projects	
25.	MS. JEFFERSON: It's the theory of	25.	that are, like, road-related, like, putting up the	
	Page 18	-		Page 20
1.	contracts.	1.	guard rails, and things like that? Does TDOT fund	
2.	MR. SUMMERS: I think there would	2.	that stuff?	
3.	be I mean, it just if we were doing a local	3.	MR. CRABTREE: Yes, sir.	
4.	job, an airport, and it had this scale in it and we	4.	MR. BAILEY: All right. Now, is that	
5.	did not pay it, I think there's a civil remedy from	5.	kind of work currently receiving prevailing wage?	
6.	our you know, the people who aren't getting paid	6.	MR. CRABTREE: Yes, sir.	
7.	properly could sue us.	7.	MR. BAILEY: Okay. All right. I was	
8.	MR. BAILEY: Yes.	8.	just wondering. When you say any TDOT funding, I	
9.	MR. SUMMERS: And then you all	9.	didn't know if that might throw a big net out there	
10.	wouldn't be able to help the employee.	10.	that was unintended, but I don't know that it would.	
11.	MS. JEFFERSON: Right.	11.	CHAIRMAN PHILLIPS: Well, that would	
12.	MR. SUMMERS: But they could is	12.	fall within the provisions of the statute.	
13.	am I correct? I'm no lawyer, but	13.	MR. CRABTREE: If it's a TDOT	
14.	MR. BAILEY: That's correct. In	14.	contract. Now, a lot of these are locally managed	
15.	fact, if it's a prevailing wage job, a state highway	15.	contracts, locally led, locally administered. So	
16.	project, and I'll look to make sure, but my	16.	MR. BAILEY: Yeah.	
17.	understanding is either the employee or the	17.	MR. CRABTREE: it's not a TDOT	
18.	Commission can bring action if they're not paying	18.	contract. But our current practice is, yes, we	
19.	the prevailing wage rate.	19.	require the local agencies to include the state wage	
20.	MR. SUMMERS: But this would be	20.	rates in their contracts.	
21.	outside	21.	MR. BAILEY: Okay.	
22.	MS. CAUDILL: Airport.	22.	MR. CRABTREE: Right or wrong?	
	MR. SUMMERS: This would just be on	23.	MR. BAILEY: I mean, I agree with	
23.		24.	Mr. Summers. I think it ought to apply to all of	
23.24.	an airport, so			
	an airport, so MR. BAILEY: Right. No. In that	25.	TDOT funded projects, but I don't think the law says	

		Page 21		Pag	ge 23
1.	that.	ruge 21	1.	in there just in case the August meeting got pushed	ge 23
2.	MR. SUMMERS: Well, Mr. Starwalt, can		2.	back.	
3.	the law be changed?		3.	CHAIRMAN PHILLIPS: Okay.	
4.	MR. STARWALT: If you can get 50 in		4.	MS. CAUDILL: But in November, it's	
5.	'17, it can (phonetic).		5.	going to be a little tight, because we'll have to	
6.	CHAIRMAN PHILLIPS: Yeah. Good luck		6.	accept the mailed-in surveys up through the 5th of	
7.	with that, right? We don't disagree, but		7.	November. And we've got a holiday on that Friday,	
8.	MR. SUMMERS: I think we understand		8.	so the only real week to have the second meeting is	
9.	how everybody feels.		9.	going to be during the week of the 12th and still	
10.	CHAIRMAN PHILLIPS: Yeah.		10.	have enough time to get the preliminary numbers to	
11.	MR. SUMMERS: So we'll		11.	you a week prior to the last meeting.	
12.	CHAIRMAN PHILLIPS: Okay.		12.	So we're probably looking at the week	
13.	MS. CAUDILL: Okay.		13.	of the 12th, somewhere in there, for that would	
14.	CHAIRMAN PHILLIPS: Good. This is		14.	give me one, two three days to get the numbers	
15.	good. I like short and sweet and to the point.		15.	together. But then to get the binders to you,	
16.	Okay. So now we need to look at the next year's		16.	especially the outline Mr. Wright and	
17.	schedule, right?		17.	Mr. Summers, it might be a little tight.	
18.	MS. CAUDILL: Yes.		18.	MR. SUMMERS: Would you prefer the	
19.	CHAIRMAN PHILLIPS: Okay. So does		19.	15th towards the end the 14th or 15th?	
20.	anybody have you got any kind of a tentative		20.	MS. CAUDILL: If we do it that week,	
21.	MS. CAUDILL: Well, typically, we		21.	yes.	
22.	meet, you know, the first meeting in August and then		22.	MR. SUMMERS: Do it the 15th.	
23.	the 15th seems to kind of stand out for the last two		23.	MS. CAUDILL: Okay.	
24.	years. That's a Wednesday. I don't know if we		24.	CHAIRMAN PHILLIPS: Yeah. Because we	
25.	typically avoid Friday and Monday. But the 15th of		25.	don't want to put you in a bind to get everything	
				The state of the s	
		Page 22		Pag	ge 24
1.	August?	Page 22	1.		ge 24
1. 2.	August? CHAIRMAN PHILLIPS: Let's make	Page 22	1. 2.	done. So you tell us what would be best for you. MS. CAUDILL: That would work.	ge 24
1		Page 22		done. So you tell us what would be best for you.	ge 24
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2. 3.	CHAIRMAN PHILLIPS: Let's make sure let me check this.	Page 22	2. 3.	done. So you tell us what would be best for you. MS. CAUDILL: That would work. CHAIRMAN PHILLIPS: Okay.	ge 24
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	Page 2	. 	Page 27
1.	30th. We could still do it like we're doing today,	' _{1.}	CHAIRMAN PHILLIPS: Is that workable?
2.	have the meeting and get them posted in the	2.	MS. CAUDILL: Because once you send
3.	afternoon. We won't have any extra day there. If	3.	it in, it's a matter of an upload, so it worked
4.	we pull the meeting back, Ann is busy the 28th and	4.	really well this year. It went really well.
5.	29th. So	5.	MR. CRABTREE: Not a problem.
6.		6.	CHAIRMAN PHILLIPS: Okay. Anything
1	CHAIRMAN PHILLIPS: Is that okay.	7.	else?
7.	MS. CAUDILL: what dates do you	- 1	
8.	have?	8.	MS. CAUDILL: No.
9.	CHAIRMAN PHILLIPS: But does that	9.	CHAIRMAN PHILLIPS: Okay. Great. So
10.	work for y'all, with what you have to do?	10.	I'll ask for a motion to adjourn.
11.	MS. CAUDILL: The 30th or	11.	MR. CRABTREE: Move to adjourn.
12.	CHAIRMAN PHILLIPS: 28th, 29th, 30th?	12.	CHAIRMAN PHILLIPS: Second?
13.	MS. CAUDILL: 28th and 29th, she	13.	MR. SUMMERS: Second. I better do
14.	would be unable to	14.	it, huh?
15.	CHAIRMAN PHILLIPS: Okay.	15.	CHAIRMAN PHILLIPS: Any questions?
16.	MS. CAUDILL: Well, let's see. The	16.	No? How many in favor?
17.	29th, she would be available the 29th, in the	17.	MR. CRABTREE: Aye.
18.	afternoon. That would work.	18.	CHAIRMAN PHILLIPS: Aye.
19.	CHAIRMAN PHILLIPS: Any of them work	19.	MR. SUMMERS: Aye.
20.	for me. I'm just	20.	CHAIRMAN PHILLIPS: How many opposed?
21.	MR. SUMMERS: They're fine with me.	21.	Motion carries.
22.	CHAIRMAN PHILLIPS: I mean, I'm right	22.	END OF PROCEEDINGS.
23.	here in the building.	23.	
24.	MS. CAUDILL: You good on the 29th?	24.	
25.	MR. CRABTREE: That's fine.	25.	
	Page 2	5	Page 28
1.	Page 2 MS. CAUDILL: 29th?	5 1.	Page 28 CERTIFICATE
1. 2.	MS. CAUDILL: 29th?	- 1	Page 28 CERTIFICATE
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2. 3.	MS. CAUDILL: 29th? CHAIRMAN PHILLIPS: All right. MS. CAUDILL: 29th at 1:30.	1.	CERTIFICATE STATE OF TENNESSEE)
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abide 8:20 17:13 abilities 6:17 ability 28:8 28:12 able 18:10 accept 8:25 23:6 according 13:10 accurate 13:5 28:11 across 8:2 action 18:18 28:16 28:17 actually 11:7 add 6:15 adequate 6:6 adjourn 27:10 27:11 adjournment 3:14 administered 20:15 administration 14:8 administration 14:8 administration 2:12 administrator 2:9 aeronautics 16:6 afternoon 22:15 24:12 25:3 25:18 agencies 20:19 agency 12:2 agenda 3:1 agree 12:12 15:19 20:23	ann 2:8 4:5 22:7 25:4 announcements 3:3 anybody 21:20 anyone 19:15 19:20 anything 6:16 27:6 applicable 7:21 apply 7:8 11:9 20:24 approval 5:5 approve 3:6 5:3 9:9 architect 2:8 ask 14:23 16:16 27:10 asked 10:13 assistant 2:11 assumed 11:13 attendees 4:17 attorney 14:13 15:1 28:13 28:15 august 21:22 22:1 22:11 22:12 23:1 24:8 24:19 26:5 26:15 26:24 authority 11:18 16:19 available 13:10 25:17 average 8:3 avoid 21:25 aye 5:19 5:20 9:6 9:7 27:17 27:18	best 13:9 24:1 28:8 28:11 better 24:16 27:13 between 12:2 12:11 big 20:9 bind 23:25 binders 23:15 binds 16:3 board 8:3 13:6 bother 16:11 bound 14:4 breaks 12:4 bring 8:13 18:18 brothers 2:5 building 4:18 4:18 25:23 bunch 13:20 burns 2:2 4:9 business 3:5 3:8 5:23 busy 25:4 C call 3:2 3:2 13:15 22:9 carolyn 2:12 carries 27:21 case 23:1 caudill 2:11 4:11 4:25 6:10 6:12 7:9 7:12 8:1 8:7 8:12 9:13 9:19 9:24 10:5	certify 28:7 28:13 chairman 2:2 4:2 4:5 4:8 4:12 4:16 4:23 5:1 5:6 5:9 5:12 5:14 5:17 5:21 6:18 7:4 7:14 7:18 7:22 8:5 8:10 8:15 8:19 8:22 9:2 9:4 9:8 9:15 9:17 9:20 10:2 10:7 10:10 10:15 10:18 10:23 12:5 12:9 13:12 14:3 14:12 14:20 14:22 14:25 15:7 15:17 15:22 16:3 16:11 16:18 16:22 17:2 17:9 17:19 20:11 21:6 21:10 21:12 21:14 21:19 22:2 22:16 22:22 22:24 23:3 23:24 24:3 24:13 24:17 24:22 25:6 25:9 25:12 25:15 25:19 25:22 26:2 26:4 26:13 26:18 27:1 27:6 27:9 27:12 27:15 27:18 27:20 challenges 13:24 chance 10:19 change 6:2 8:24 14:18 19:12 19:13 changed 21:3	conflict 3:4 4:24 5:2 conflicts 5:24 connected 28:15 consensus 13:21 construction 2:5 3:10 3:12 10:16 contract 12:1 12:3 13:25 14:1 16:15 17:12 17:13 17:20 19:3 20:14 20:18 contracting 12:11 contracts 12:2 18:1 20:15 20:20 conversations 19:19 coordinator 6:7 copy 10:12 correct 6:1 8:11 18:13 18:14 19:5 counsel 2:10 11:22 28:14 28:15 county 28:3 court 1:23 28:7 crabtree 2:3 4:3 4:4 5:5 5:20 6:20 6:25 7:6 7:10 7:16 7:19 9:3 9:7 10:22 10:25 11:21 11:25 12:6 12:17 12:19 12:23 12:25 13:13 13:17 13:20 14:16 15:6 15:8 16:8 17:11 17:15 17:21 19:15
27:11 adjournment 3:14 administered 20:15 administration	assumed 11:13 attendees 4:17 attorney 14:13 15:1	25:23 bunch 13:20 burns 2:2 4:9 business 3:5 3:8	17:2 17:9 17:19 20:11 21:6 21:10 21:12 21:14 21:19 22:2 22:16 22:22	copy 10:12 correct 6:1 8:11 18:13 18:14 19:5 counsel 2:10 11:22
administrative 2:11 2:12 administrator 2:9 aeronautics 16:6	22:11 22:12 23:1 24:8 24:19 26:5 26:15 26:24 authority 11:18	C call 3:2 3:2 13:15 22:9	24:3 24:13 24:17 24:22 25:6 25:9 25:12 25:15 25:19 25:22 26:2 26:4 26:13 26:18 27:1	county 28:3 court 1:23 28:7 crabtree 2:3 4:3 4:4 5:5 5:20 6:20 6:25
24:12 25:3 25:18 agencies 20:19 agency 12:2 agenda 3:1 agree 12:12 15:19 20:23	available 13:10 25:17 average 8:3 avoid 21:25 aye 5:19 5:20 9:6 9:7 27:17 27:18	carries 27:21 case 23:1 caudill 2:11 4:11 4:25 6:10 6:12 7:9 7:12 8:1 8:7 8:12 9:13 9:19 9:24 10:5	27:15 27:18 27:20 challenges 13:24 chance 10:19 change 6:2 8:24 14:18 19:12 19:13	9:3 9:7 10:22 10:25 11:21 11:25 12:6 12:17 12:19 12:23 12:25 13:13 13:17 13:20 14:16 15:6
agreed 12:10 ahead 13:23 airport 10:16 12:2 18:4 18:22 18:24 19:7 airports 11:4 11:5 11:11 12:16 13:15 14:10 all 5:1 5:17 5:21 9:5 9:5 10:10 10:12 10:21 11:3 13:6 13:17 13:24 17:11 18:9 20:4 20:7	B back 23:2 25:4 bailey 2:10 14:18 17:23 18:8 18:14 18:25 19:6 19:10 19:24 20:4 20:7 20:16 20:21 20:23 22:11 22:13 24:5 26:7 basically 10:20 16:15	10:8 10:11 10:16 14:24 16:5 16:10 16:14 16:20 17:1 17:7 17:14 18:22 19:2 19:5 19:9 21:13 21:18 21:21 22:6 22:12 22:14 22:18 22:21 22:25 23:4 23:20 23:23 24:2 24:7 24:11 24:16 24:20 24:23 25:7 25:11 25:13 25:16 25:24 26:1	charged 15:10 check 22:3 choice 8:18 civil 18:5 clarification 14:9 class 6:6 classification 8:13 clear 15:4 comes 11:4 11:17 commission 1:10 3:6 14:4 18:18 28:22	19:19 20:3 20:6 20:13 20:17 20:22 22:23 25:25 26:20 26:25 27:5 27:11 27:17 curiosity 7:7 curious 7:20 current 6:13 20:18 currently 20:5 D dan 2:10
20:24 22:24 26:2 28:9 already 10:4 always 7:23 15:17 amount 6:5	been 7:11 7:24 before 10:11 17:16 behind 4:21 believe 17:21 benefit 13:3	26:3 26:8 26:14 26:19 26:22 27:2 27:8 central 26:12 certainly 17:10	commissioner 2:2 2:3 2:4 2:6 2:8 15:10 16:9 company 2:5 complete 28:11	data 6:6 date 22:8 24:20 26:6 dates 3:13 10:3 25:7

	Γ	T		1 450 50
day 25:3 28:18	every 11:12	george 1:23	industry 2:4 2:6	10:6 11:11 16:21
days 23:14	everybody 5:2 21:9	get 4:23 14:14 16:5	instead 8:14 19:12	17:8 17:16 21:23
december 24:24	24:14	21:4 23:10 23:14	interest 3:4 4:24	23:11 26:17 26:24
28:18	everything 15:24	23:15 23:25 25:2	5:3	law 6:1 7:3 7:9 7:24
decided 8:2	23:25 26:10	gets 17:17 17:17	interested 28:16	7:24 10:21 11:16
declaration 3:4	exit 4:18	getting 18:6	internally 13:14	13:11 14:9 14:15
defined 11:15	expires 28:22	give 5:22 23:14	interpret 11:22	15:4 15:23 19:21
department 1:1 2:8	extra 25:3	gives 6:1	15:12	20:25 21:3
designee 2:3		giving 9:20	interpretation	laws 15:11
determination 16:6	F	go 8:2 10:11 12:16	15:14 15:18 15:19	lawyer 18:13
development 1:1	fact 18:15	13:22 14:12 14:23	involvement 10:17	lcr 1:23 28:6 28:21
deviate 17:18	fairly 19:12	15:23 15:23 22:17	issue 5:25	leaning 11:25
direct 4:18	fall 16:12 20:12	goes 14:10	it'd 14:12	leave 15:5
director 2:13	falling 24:24	going 4:14 9:25	iv 3:5	leaves 11:2
disagree 15:6 15:25	far 22:6	15:1 23:5 23:9		led 20:15
21:7	favor 5:18 9:5	gone 7:24	J	left 11:16
discuss 3:9 3:13	27:16	good 5:1 5:3 9:23	jan 2:11	legal 2:10 6:8 6:16
discussing 13:14	federal 12:15 12:21	11:10 21:6 21:14	jefferson 2:9 7:23	legislature 11:19
discussion 5:22	12:23 12:25 13:7	21:15 22:5 22:7	8:4 8:9 15:9 15:21	let 22:2 22:3 22:10
6:18 6:21 9:4	feels 21:9	24:18 24:21 25:24	17:25 18:11	25:16
division 1:2	fieldstone 1:24	got 11:19 12:8	job 9:23 18:4 18:15	like 9:25 11:18
doing 5:8 9:23 18:3	final 24:23	16:21 21:20 22:7	jurisdiction 16:17	19:25 19:25 20:1
25:1	financially 28:16	22:17 23:1 23:7	19:1 19:7	21:15 24:17 25:1
dominique 1:23	fine 22:20 25:21	government 11:18	just 4:19 5:22 7:6	26:20 26:22
28:6 28:21	25:25	13:7	7:19 8:2 9:12 9:13	line 4:20
done 6:23 8:25	first 16:15 21:22	grant 12:17	9:15 9:20 11:13	list 26:21 26:21
11:10 24:1	24:8 26:15 26:23	great 27:9	12:10 15:11 15:15	little 11:2 11:2 23:5
down 6:24 12:4	fix 19:12	guard 20:1	15:19 16:22 18:3	23:17
draft 10:14	flow 12:15	H	18:23 19:12 20:8	local 11:17 11:18
dubois 1:23 28:6	follow 4:14 4:19		22:10 23:1 25:20	12:2 12:16 13:3
28:21	15:11 15:15	hand 17:17	K	13:15 14:10 18:3
during 23:9	follows 19:14	happened 7:25	keep 16:22 24:12	20:19
E	foregoing 28:10	hard 9:21	kenneth 2:13	locally 13:17 20:14
	formal 14:23	haven't 13:21	kent 2:14	20:15 20:15
either 13:22 18:17	franklin 1:25	help 18:10	kim 2:9	long 22:17
else 27:7	friday 21:25 23:7	hereby 28:7	kind 17:17 20:5	look 18:16 21:16
emergency 4:10	front 4:20	highway 3:10 3:12 11:7 18:15 19:8	21:20 21:23	looking 12:6 23:12 lot 11:4 20:14
4:13	fund 19:24 20:1	19:13	kinds 11:3	lower 8:16
employee 18:10	funded 20:25	holiday 23:7	know 4:5 5:9 13:8	luck 21:6
18:17 28:15	funding 17:4 19:13	how 9:17 11:22	13:10 15:9 15:12	IUCK 21:0
end 23:19 27:22	19:14 20:8	21:9 27:16 27:20	15:15 18:6 20:9	M
enforce 13:25 17:12	funds 11:3 12:15	huge 13:18	20:10 21:22 21:24	machine 28:9
enough 23:10 entities 14:10	12:21 further 28:13		22:8 22:17	mailed-in 23:6
		I		mailing 26:21
entity 13:3 13:3	future 3:13 10:3	ii 3:3	L	make 8:12 18:16
especially 11:5 23:16	G	iii 3:4	labor 1:1 3:7 5:4	22:2
esq 2:9 2:10	general 11:22 14:13	inc 2:5 2:7	language 16:13	makes 11:21
esq 2.9 2.10 even 19:7	15:1	include 14:9 20:19	large 28:21	managed 13:18
event 4:9 4:12	generally 15:13	inconsistent 12:12	last 5:10 8:2 8:25	20:14
EVEIL 4.7 4.12	501101 uii y 13.13			

				1 450 51
manager 2:12	need 9:9 21:16	parks 4:19	present 4:4 4:7 4:8	14:5
many 11:10 27:16	needed 22:9	parks 4.19 parkway 1:24	present 4.4 4.7 4.8 pretty 15:4 15:14	recorded 28:8
27:20	net 20:9	parties 12:11 28:14	prevailing 1:10 3:6	regarding 10:14
marketplace 13:5	nevertheless 15:22	parties 12.11 28.14 passed 14:15	3:10 3:11 3:13 6:3	regulation 16:17
matter 17:15 27:3	new 3:8 5:23 6:5	past 5:11 6:23	9:9 10:3 10:17 11:6	related 19:25
maybe 14:7	10:21	11:14 11:14	11:19 12:21 17:4	relative 28:14
mcgauran 2:8	next 21:16 24:25	pay 18:5	18:15 18:19 20:5	remedy 13:25
24:21	nor 28:14 28:16	pay 18.3 paying 18:18	prevent 16:25 17:5	17:12 17:19 18:5
mean 12:11 13:2	notary 28:6 28:21	people 11:13 13:6	prior 23:11	remember 6:25
13:6 14:5 14:22	nothing 16:24 17:4	15:20 18:6	probably 13:22	reporter 28:7
15:24 15:25 17:23	november 1:11 3:6	percent 6:2 6:3 6:4	14:14 23:12 24:14	reporting 1:23
18:3 20:23 24:11	5:4 10:13 23:4 23:7	6:12 6:14 6:24	problem 27:5	representative 2:5
25:22	24:9 24:11 26:16	phillips 2:2 4:2 4:5	problems 15:12	2:6
meet 21:22	26:17	4:8 4:9 4:12 4:16	proceedings 1:8	request 5:3
meeting 1:10 3:6	now 13:10 19:6	4:23 5:1 5:6 5:9	27:22 28:9	require 13:8 13:9
3:13 4:17 5:10 5:11	20:4 20:14 21:16	5:12 5:14 5:17 5:21	programs 13:15	20:19
8:2 9:1 10:3 10:6	number 8:13	6:18 7:4 7:14 7:18	13:18	20:19 required 11:15
10:9 21:22 23:1	number 8.13 numbers 23:10	7:22 8:5 8:10 8:15	project 18:16	requires 13:7 17:4
23:8 23:11 24:24	23:14	8:19 8:22 9:2 9:4	projects 3:10 3:12	response 10:14
25:2 25:4 26:15	23.14	9:8 9:15 9:17 9:20	19:24 20:25	review 3:6 3:9
26:16 26:17	0	10:2 10:7 10:10	promulgate 14:17	revised 3:9 5:23
mess 9:22 9:23	object 19:16 19:20	10:15 10:18 10:23	properly 18:7	
might 11:1 20:9	old 3:5 7:7 7:20	12:5 12:9 13:12	provision 12:21	right 4:10 4:21 5:2 6:1 6:8 6:23 7:15
23:17	once 17:17 27:2	14:3 14:12 14:20	provisions 20:12	8:15 10:10 13:10
mind 11:6 11:20	one 5:25 7:15 8:6	14:22 14:25 15:7	public 28:7 28:21	13:12 15:9 15:18
14:8	8:7 11:12 15:10	15:17 15:22 16:3	public 28.7 28.21	17:1 17:14 18:11
minus 6:5	23:14	16:11 16:18 16:22	pushed 23:1	18:25 20:4 20:7
minutes 5:13 5:15	opinion 14:24	17:2 17:9 17:19	put 13:23 13:23	20:22 21:7 21:17
miscalculation 7:25	14:25 17:5	20:11 21:6 21:10	17:23 23:25	22:24 25:22 26:2
modify 6:8	oppose 14:8	21:12 21:14 21:19	putting 19:25	road 19:25
monday 21:25	opposed 5:21 9:5	22:2 22:16 22:22	putting 17.23	roll 3:2
money 11:5 11:8	27:20	22:24 23:3 23:24	Q	rosa 4:19
14:9	order 3:2	24:3 24:13 24:17	question 16:15	rule 7:1 7:7 7:10
more 6:16 7:20	ought 13:8 20:24	24:22 25:6 25:9	questions 27:15	7:20 14:17 14:17
morning 22:15	ours 13:5 13:9 17:6	25:12 25:15 25:19		15:23
most 12:21	ourselves 15:13	25:22 26:2 26:4	R	
mostly 12:15	out 7:6 8:6 8:8	26:13 26:18 27:1	rails 20:1	S
motion 5:3 9:9	10:12 11:3 11:16	27:6 27:9 27:12	rate 6:2 6:4 6:5 6:9	safe 4:17
27:10 27:21	13:4 15:5 17:17	27:15 27:18 27:20	6:13 11:12 14:11	said 6:21 10:5
move 5:5 8:25	20:9 21:23	phonetic 21:5	18:19 19:14	22:11 28:10
27:11	outline 23:16	place 4:17	rates 3:10 3:11 5:23	same 11:8
moved 9:8	outside 6:7 6:16	plus 6:5	9:10 11:9 12:10	saturday 24:24
much 15:14	18:21	pmb 1:24	13:4 13:7 13:23	say 6:9 10:1 20:8
must 7:24	over 13:6	point 16:4 21:15	20:20	saying 15:25 16:23
myself 19:17		posted 24:25 25:2	read 7:17 9:25	says 8:22 10:21
	P	practice 20:18	10:19	10:24 10:25 12:13
N	page 7:12 7:13	prefer 22:15 23:18	reads 15:4	19:21 20:25
narrowly 11:15	paid 18:6	preliminary 3:10	real 23:8	scale 18:4
nealy 2:13	paragraph 17:8	23:10	receiving 20:5	schedule 21:17 22:7
necessarily 13:14	parameters 16:12	prepared 3:7	recommendations	second 5:6 5:16
1	1	1	1	I

				Ι
5:22 6:20 9:2 9:3	statute 7:2 7:5	26:11	trba 2:14	week 23:8 23:9
23:8 26:16 27:12	14:19 16:13 20:12	tennessee 1:1 1:25	treasury 2:8	23:11 23:12 23:20
27:13	stephen 2:4 4:6	2:8 28:2	true 15:21 28:11	26:23 26:24
security 4:13	steve 26:11	tentative 21:20	trying 15:12 15:15	went 6:7 27:4
see 25:16	still 7:7 7:20 11:7	terms 14:4	twice 9:18 9:25	whack 8:6
seems 21:23	13:13 23:9 25:1	thank 9:24	two 7:12 12:11	whatever 12:5 12:9
seen 7:15	stone 1:23	that'll 22:20	21:23 23:14	15:23
send 27:2	stuff 11:16 20:2	them 4:18 10:8	type 11:8	when 11:15 13:7
sense 11:21	submitted 5:2	10:12 11:12 13:8	typically 21:21	15:13 16:5 20:8
sensible 12:12	sue 18:7	13:9 13:21 16:6	21:25	26:20
sent 10:12	suite 1:24	16:9 16:21 16:25	21.23	where 6:6 12:3
september 22:25		17:5 24:25 25:2	U	whether 7:1 7:1
24:8 26:24	summary 3:7 5:4 summers 2:6 2:7	25:19	uh-huh 19:23	7:20
services 2:12		theory 17:25	ultimately 15:1	who 18:6
	4:6 4:7 4:14 5:7	they 11:13 11:15	unable 25:14	whole 4:22
set 3:11 10:4 10:8	5:11 5:13 5:16 5:19	11:16 11:20 13:6	under 6:6	whole 4.22 why 15:15
several 11:11	5:25 6:11 6:14 6:22	17:5 17:9 17:11	under 6.0 understand 21:8	1 •
sherrod 2:12	7:3 8:16 8:21 8:24	17:16 17:23 18:12		will 4:17 24:25
short 21:15	9:6 9:11 9:16 9:22	thing 15:10	understanding	williamson 28:3
shorthand 28:9	10:20 11:1 11:24 12:8 12:14 12:18	things 13:4 20:1	18:17	wind 15:2
side 4:19		think 6:1 6:8 6:16	unintended 20:10	within 16:12 20:12
signed 28:18	12:20 12:24 13:2		unit 3:7	wondering 20:8
simple 19:12	13:16 13:19 14:2	8:17 8:18 8:19 11:1	unless 19:2	work 6:7 11:8 20:5
sir 12:19 13:1 20:3	14:6 14:14 14:21 15:3 16:2 16:24	11:14 11:18 11:20 13:8 13:22 14:6	up 6:24 15:2 19:25	22:22 24:2 25:10
20:6 22:23	17:3 17:22 18:2	15:3 15:4 15:5 18:2	23:6	25:18 25:19
site 6:7	18:9 18:12 18:20	18:5 19:11 19:15	upload 27:3	workable 27:1
situation 19:1	18:23 19:4 19:11	19:20 20:24 20:25	use 13:3 13:9 14:10	worked 27:3
six 6:2 6:2 6:4 6:12	19:18 19:23 20:24	21:8 24:13	17:5 17:16	workforce 1:1
6:14 6:24	21:2 21:8 21:11	thinks 11:19	used 7:23 11:13	works 24:14 24:16
skill 28:8	22:4 22:20 23:17	1	V	wright 2:4 2:5 22:8
small 11:5	23:18 23:22 24:15	thought 9:11 10:3 three 23:14		23:16
smaller 11:11	25:21 26:11 27:13		verbatim 11:4	written 15:11 15:16
someone 13:24 14:1	27:19	threw 22:25	vi 3:14	wrong 15:14 15:18
17:13	sure 13:16 18:16	through 11:17		20:22
something 11:3	22:3 22:20 24:15	12:15 23:6		wrote 11:15
11:17 15:5	survey 6:2 6:4 6:5	throw 20:9	wage 1:10 3:6 3:10	Y
somewhere 23:13	6:8	tight 23:5 23:17	3:11 3:13 6:3 9:9	
sorry 6:20 6:21	surveys 23:6	time 4:22 9:21	10:3 10:17 11:6	y'all 10:18 25:10
speak 14:7 19:17	surveys 25.0 sweet 21:15	12:22 16:4 22:13	11:8 11:12 11:19	yeah 5:12 5:14 7:14
staff 4:16	Sweet 21.13	22:14 23:10 24:4	12:21 12:25 13:3	7:18 8:21 8:23 9:16
stand 21:23	T	24:5 24:6 26:6	13:7 16:5 17:4	11:24 12:19 14:16
standards 3:7 5:4	take 4:17 6:3	times 6:4	18:15 18:19 19:14 20:5 20:19	14:20 15:7 16:2
starwalt 2:14 4:21	taylor 2:7	today 25:1		17:7 17:9 19:4
21:2 21:4 22:10	tdot 2:3 11:4 11:5	together 23:15	wait 5:7	19:10 19:18 20:16
24:4 24:6 24:9	11:7 11:17 12:15	told 22:9	want 7:16 14:1	21:6 21:10 23:24
24:19 26:5 26:9	14:8 14:9 19:13	took 8:5 8:7	17:13 22:18 23:25	year 8:17 17:16
state 1:1 2:8 3:10	19:16 19:24 20:1	top 7:13	24:12	17:16 21:16 24:25
3:12 8:3 12:1 12:3	20:8 20:13 20:17	towards 23:19	way 6:22 12:6 15:4	27:4
13:23 16:15 18:15	20:8 20:13 20:17	traffic 6:7	wayburn 2:3 4:3	years 11:11 21:24
19:2 19:8 20:19	tell 16:6 16:8 24:1	transcript 1:8	ways 22:17 24:18	1
28:2 28:21	10.0 10.0 24.1	28:10 28:10 28:11	wednesday 21:24	
		1	1	I

		 	Page 33
124h 22.0 22.12	47 0.14	 	
12th 23:9 23:13	67 8:14		
13 6:9 6:15	686 1:23 28:6 28:21		
14th 22:4 22:11	8		
22:12 23:19 26:6	82 6:14		
26:15 15th 21:23 21:25	<u> </u>		
23:19 23:19 23:22	9		
24:6 24:9 24:12	900 1:24		
26:16			
16 3:6 5:4			
17 6:9 6:15 21:5			
18 8:14 16:10 16:20			
19 6:10 6:11 6:14			
6:15			
1st 24:24			
2			
20 8:14 16:21			
2017 1:11 3:6 5:4			
6:3 28:18			
2018 3:10 3:11 3:13			
9:10 28:22			
2020 1:24			
20th 10:13			
221-1089 1:25			
234 1:24			
24 6:6 8:13			
28th 25:4 25:12			
25:13 28:18			
29th 25:5 25:12			
25:13 25:17 25:17			
25:24 26:1 26:3			
26:17			
3			
30 1:11 22:18 22:21			
24:16 26:3 26:7			
26:8 26:9 26:10			
26:15 26:16 26:17			
30th 25:1 25:11			
25:12			
32 8:14			
37069 1:25			
5			
50 21:4			
50 21:4 5th 23:6			
6			
615 1:25			